

**DRAFT MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, May 16, 2006  
**Time:** 6:00 PM (Closed Session)  
7:00 PM (Public Business)  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd.

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**ROLL CALL**

Mayor Esteves called the meeting to order at 6:00 PM.

**PRESENT:** Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano, Livengood and Polanski

**ABSENT:** Mr. Livengood and Mr. Gomez were not present for the Closed Session. Mr. Gomez arrived for the Open Session at 7:07 PM.

**CLOSED SESSION**

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following four issues:

**(1) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

(Pursuant to California Government Code Section 54957.6)

City Negotiator: Carmen Valdez. Employee Organizations: Milpitas Professional and Technical Group (ProTech), and Laborers' International Union of North America (LIUNA)

Under Negotiation: Wages, Hours, Benefits, Working Conditions

**(2) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV008400

**(3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

(Pursuant to Government Code Section 54956a) Yuan-Miu vs. City of Milpitas, #OAK0321412

**(4) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

(Pursuant to Government Code Section 54956(a)). Nichols vs. City of Milpitas, #SJ00233154

The City Council reconvened in Open Session at 7:00 PM with Mayor Esteves presiding and three Councilmembers present.

**CLOSED SESSION  
ANNOUNCEMENT**

None

**PLEDGE**

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

**INVOCATION**

Mayor Esteves offered a prayer to start the meeting.

**MINUTES**

**MOTION:** approve meeting minutes of the May 2, 2006 Council meeting, as amended.

Councilmember Giordano requested one correction to the minutes.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried unanimously by a vote of: AYES: 5  
NOES: 0

**SCHEDULE OF MEETINGS** **MOTION:** to approve the Schedule of Meetings

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried unanimously by a vote of: AYES: 5  
NOES: 0

**PRESENTATIONS** **Proclamations**

Mayor Esteves proclaimed **Memorial Day** for May 29, 2006, accepted by Mrs. Anne Just (spouse) and Louise (daughter) of Milpitas Veterans Club founder and member, Louis Pimental. On Memorial Day, the City planned a ceremony and event at the Veterans Park.

Mayor Esteves proclaimed Veterans of Foreign Wars' **Buddy Poppy Month** for May 2006. Buddy Poppies were created by disabled veterans and distributed for a small contribution in order to recognize, honor and remember all who performed military service for our country.

Mayor Esteves proclaimed **Public Works Week** for the week of May 21 to 27, 2006, accepted by Public Works staff Eddie Loreda and Paul Mullett.

**CITIZENS FORUM**

**Omar Hyett**, addressed Council regarding his increased water bill, had lived in Milpitas since 1975 and was retired. He believed rights were taken away from him and complained of additional water charges. Mr. Hyett had previously called Councilmembers about this matter and hoped for some relief. Councilmember Giordano responded to Mr. Hyett stating that water meter readers could check out the meter to ensure it was working correctly and could point out if there were any water leaks.

**Mrs. Barrientos**, resident since 1971, was glad the Council listened to citizens. She made comments about a problem with rats at her home, and had concern for future building projects in Milpitas, that they would be built to highest quality standards, especially to avoid any problems with rodents. Planning and Building staff offered to speak with her outside the Council Chambers.

**Mike Queenan**, Community Advisory Commissioner, announced that the CAC hoped to sponsor a public forum on Measure I (regarding Charter City). He had lined up an opponent speaker but was seeking a speaker on for the pro side.

**Bill Reisinger**, announced that Thursday, May 18 was "Bike to Work Day" with Energizer Stations in Milpitas at three locations featuring refreshments and information. Riders also could enter a drawing. Stations were planned at City Hall, in front of the Police Station, and at the Shell Gas station on Montague at Main St.

**Ana Andreas**, 767 Alcosta, Secretary of Filipino American Association, invited the Mayor and City Councilmembers to attend the Filipino Multi-Cultural Festival on June 4, 2 – 7 PM, with dancing until midnight. The Festival will be held at the Milpitas Community Center.

**Frank DeSmidt**, Chamber of Commerce, announced a Public Forum this Thursday evening on Measure A (regarding County transportation funding). Two speakers for/against Measure A would discuss the issue for the public. He also announced a Chamber Mixer event the following Tuesday at the Embassy Suites Hotel.

**ANNOUNCEMENTS**

City Manager Charles Lawson reported a successful Mass Feeding Drill held on Thurs., May 11, with 660 children evacuated and fed lunch at the Rancho School. At the same time a City Disaster Exercise was held for City officials at the Emergency Operations Center located at the Police Department. Fire Battalion Chief Kastros did an outstanding job coordinating the EOC drill.

Councilmember Polanski had attended the Pomeroy School 5<sup>th</sup> graders DARE graduation recently, along with other City officials, which was well attended.

City Clerk Mary Lavelle announced Monday, May 22, as the deadline to register to vote for the June 6 election. Forms were available at City Hall, library and post office.

**ANNOUNCEMENT OF  
CONFLICT OF INTEREST**

None

**APPROVAL OF AGENDA**

Motion: to approve the agenda as submitted

Motion/Second: Vice Mayor Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

**CONSENT CALENDAR**

Councilmember Giordano asked to place Item No. 4 on consent calendar.

Councilmember Polanski asked that Items No. 8 and 10 remove from consent.

Motion: to approve the Consent Calendar as amended

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

**\* 4. Approve Reclassification**

Approved the reclassification of the Office Assistant II and Cashier to Fiscal Assistant I/II in the Finance Department.

**\* 5. Approve Mayor's  
Recommendations for  
Appointments to City  
Commissions**

Approved Mayor's recommended Commission appointments noted below.

Arts Commission:

Appoint (current Alternate #1) Juniel-Butler to a vacancy that expires October 2008.

Appoint (current Alternate #2) Archana Aragon to Alternate #1 seat expiring Oct. 2006.

Appoint Richard Tsuei to the Alternate #2 seat that expires October 2007.

Bicycle Transportation Advisory Commission:

Appoint (current Alternate #2) Cheryl Bunnell to Alternate #1 seat that expires Aug '06.

Appoint Wesley Roediger to the Alternate #2 seat that expires August 2007.

Community Advisory Commission:

Appoint (Alternate #4) Heidi Hai T. Pham to Alternate #3 seat that expires January 2008.

Appoint Chinedu Nwobi to the Alternate #4 seat that expires January 2008.

Economic Development Commission:

Re-appoint the following four Commissioners to seats that will expire in April 2009:

Ray Maglalang  
Donald Peoples  
Frank DeSmidt  
Charlene Tsao

Re-appoint Alternate #2 Zeya Mohsin to a term that expires in April 2008.

Library Advisory Commission:

Re-appoint Marilyn Hay to a term that expires in June 2008.

Re-appoint Yu-Lan Chou to a term that expires in June 2008.

Parks, Recreation and Cultural Resources Commission:

Re-appoint Steve Munzel to a term that expires in June 2009.

Recycling and Source Reduction Advisory Commission:

Appoint current Alternate #1 Eulalio Mercado to a vacancy that expires October 2008.

Appoint current Alternate #2 Hong Chen to the Alternate #1 seat that expires Oct. 2007.

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| <p><b>* 7. Dispose of Surplus Vehicles at Auction</b></p>  | <p>Approved disposal of the following two vehicles at auction:</p> <p style="padding-left: 40px;">1996 Ford Crown Vic license # 024949, estimated value: \$1,500<br/>1983 Ford F8000 dump truck license # 454850, estimated value: \$5,000</p>  |
| <p><b>* 9. Adopt Ordinance 48.17 on Solid Waste Management</b></p>   | <p>Waived Second Reading and Adopted Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code on Solid Waste Management.</p>  |
| <p><b>* 11. Resolution Directing Preparation of the Annual Engineer's Report</b></p>   | <p>Adopted Resolution No. 7588 directing the preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 95-1, Project No. 9474, McCarthy Ranch</p>  |
| <p><b>* 12. Resolution Directing Preparation of the Annual Engineer's Report</b></p>   | <p>Adopted Resolution No. 7589 directing the preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1, Project No. 9489, Sinclair Horizon</p>  |
| <p><b>* 13. Resolution Amending the Fee Schedule to include a 2.5% Permitting Automation Fee</b></p>                                 | <p>Adopted Resolution No. 7590 amending the Fee Schedule to include a 2.5% Permitting Automation Fee effective July 1, 2006 to recover the cost of an online Permitting and Development System.</p>   |
| <p><b>* 14. Contract Amendment with MBIA Muniservices Co. for Financial Consultant Services</b></p>                                  | <p>Approved the contract amendment with MBIA MuniServices Company, subject to approval as to form by the City Attorney.</p>   |
| <p><b>* 15. Approve Budget Request and Contract with CSG Consultants, Inc.</b></p>   | <p>Approved budget request increase of \$20,400, to pay for contract services between the City and CSG Consultants, Inc. for Fire Plan Check Services subject to review by the City Attorney</p>  |
| <p><b>* 16. Amend Funding Agreement with Santa Clara Valley Transportation Authority</b></p>   | <p>Authorized City Manager to execute an amendment to the Transportation Fund for Clean Air funding agreement between the Santa Clara Valley Transportation Authority and the City for Coyote Creek Trail Reach 1, Project No. 4206, subject to approval as to form by the City Attorney</p>  |
| <p><b>* 17. Authorize City Manager to Approve Ninth Amendment to Agreement with City of San Jose For Recycled Water Services</b></p> | <p>Authorized the City Manager to approve Ninth Amendment to the In-Kind Services Agreement with the City of San Jose for Recycled Water Services.</p>  |
| <p><b>* 18. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals</b></p>                               | <p>Approved plans and specifications and authorized advertising project for bid proposals for 2006 Slurry Seal Project, Project No. 4229.</p>   |
| <p><b>* 19. Award Construction Contract, Approve Amendment to Consultant Agreement and Approve Budget Appropriation</b></p>          | <p>1. Appropriated \$100,000 from the Park Fund for the Hetch Hetchy Landscape Renovation, Project No. 5053.<br/>2. Authorized the City Manager to execute the amendment to consultant agreement, subject to approval by the City Attorney as to form.<br/>3. Awarded the construction contract to RMT Landscape Contractors, Inc., in the amount of \$153,853.00, subject to approval by the City Attorney as to form.</p> |
| <p><b>* 20. Award Construction Contract</b></p>  | <p>Awarded Construction Contract for the Sewer Deficiency and Structural Correction Program – Pipe Bursting/Reaming Project No. 6073 to Pacific Trenchless, Inc. in the amount of \$129,540.</p>  |

## **PUBLIC HEARING**

**1.** Continue the Public Hearing for the Disposition and Development Agreement and a Garage Site Ground Lease for the County Health Center at North Main Street

City Manager Lawson announced that staff requested this be continued.

Mayor opened the public hearing for comment, none heard.

**MOTION:** to continue the Public Hearing to June 20, 2006

**Motion/Second:** Vice Mayor Gomez/ Councilmember Giordano

Motion carried by a vote of:

**AYES:** 5

**NOES:** 0

## **UNFINISHED BUSINESS**

**2.** Conceptually Approve the Revised Budget Guidelines and Fiscal Policies

Finance Director Emma Karlen presented her memo to the City Council, reminding them she had previously presented the Revised Guidelines and Policies to the Council at its last meeting. She summarized a handful of the recommendations.

Councilmember Polanski asked about item No. 14 regarding grants pursued. She stated the City was already doing that, so was this strictly putting the policy in writing? Staff replied yes. On item 40, Mrs. Polanski noted the established recycled water reserve of \$300,000, and asked where those funds came from. Staff replied from the fund balance set aside for reserve. Item No. 44 was explained as the Capital Reserve of \$700,000 for technology equipment replacement within the City.

Councilmember Livengood wanted to add one procedure. He requested staff to come to the Council with any large expenditures throughout the year, that were beyond those in the adopted budget. He wanted those expenses to go first to the Finance Subcommittee for review. So, on Guideline 6, he recommended to add: those requests not presented at budget time were to be first reviewed at the Finance Subcommittee and then go before the City Council.

Vice Mayor Gomez commented on the Capital Improvement Program budget, as usually it was a wish list rather than actual items built or pursued. Was the proposed CIP for the coming year changed to reflect true expenditures? The Finance Director stated the City would fund only those projects that the City can afford to build.

Mayor Esteves was pleased with the various identified funds for replacement, such as those for reserve, for enterprise funds, and others. He wondered if those were actually funded presently. For water and sewer funds, the City had not begun this funding effort yet; it was rather a goal in the new policy for Council to adopt, the Finance Director explained.

The Mayor was curious when or how long it would take to get to the 30% reserve funds for water. Utility Engineer Darryl Wong replied that with a longer-term plan in effect with the adopted Master Plan, to get to a 30% reserve rate for water expenses would take several years. As Ms. Karlen identified in responding to the Mayor, the proposed new Budget Guidelines contained a goal to strive towards, over the next four to five years at least. Mr. Wong stated that presently, the City was selling less water, with less demand, so there was less revenue, but the goal for reserve funds had begun to be implemented through rate setting now and future changes.

Mayor Esteves inquired about the City's credit rating, whether there was any specific goal the City wished to attain. The Finance Director replied that the City was trying to maintain its current general credit rating of "AA."

**Motion:** conceptually approve revised budget guidelines and fiscal policies, including Councilmember Livengood's additional policy to require non-budgeted large expenditure items to go before the Finance Subcommittee first, prior to Council.

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

Motion carried by a vote of: AYES: 5  
NOES: 0

**3. Introduce Ordinance No. 197.9**

Finance Director Karlen explained the need to consolidate the two departments, Public Works and Engineering. One Department head now managed the two functions, which would become one department with adoption of the ordinance.

Ms. Karlen read the title of the Ordinance: An Ordinance of the City of Milpitas Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code related to City Departments

MOTION: Waive the First Reading Beyond the Title

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

MOTION: Introduce Ordinance No. 197.9, Approving the Reorganization of Public Works and Engineering by Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code Related to City Departments

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

**JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. CALL TO ORDER**

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:48 PM.

**RA2. ROLL CALL**

**PRESENT:** Mayor/Chair Esteves, Vice Mayor/Vice Chair Gomez and Agency/Councilmembers Giordano, Livengood and Polanski

**ABSENT:** None

**RA3. MINUTES**

Motion: to approve the Redevelopment Agency minutes of May 2, 2006, including joint meeting with the City Council, as submitted.

Motion/ Second: Agency/Councilmember Polanski/ Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

**RA4. Approval of Agenda and Consent Calendar**

Motion: to approve the agenda and consent calendar for the Agency

Motion/ Second: Agency/Councilmember Polanski/ Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

**RA5. 2006-2011 Capital Improvement Program (CIP) and Approve Budget for 2006-2007**

City Engineer Greg Armendariz reviewed the Capital Improvement Program for the next five years, a review of major projects planned for the City, with regard to construction, streets, lighting and utility upgrades. It had been reviewed by both the Parks, Recreation and Cultural Resources Commission and the City Council CIP Subcommittee. On April 12, the proposed CIP was found to be in compliance by the Planning Commission.

There were six fund categories: Community Improvements, parks, streets, water, sewer and storm. Funding sources for the projects came from restricted funds: Redevelopment funds, gas tax, sewer and water enterprise funds, revenue, and grants.

\$54,651,294 for next the Fiscal Year was proposed to fund the projects in 2006-07 of the five-year plan. No General Fund money was allocated for the CIP. Vice Mayor Gomez asked the City Engineer how this was different from the past and he responded that in the past, some projects like storm and community improvements did utilize General Fund money.

The Community Improvement section recommended funding for three projects: the new Library, the Sports Center large gym and public television cable access studio.

Councilmember Giordano asked about the large gym and what about FEMA grant money for the improvement of the gym related to the emergency mass care and shelter function. She wanted to know what seismic improvements would be done. The City Engineer noted the FEMA reported that grant money was re-funneled toward Hurricane Katrina relief, and so the City would pursue other grant revenue for seismic retrofit.

In the Parks section, a master plan for 25 existing City parks was presented. Vice Mayor Gomez asked, on the parks plan, with a reduced number of projects in the CIP overall, how long would the master plan would take to be implemented? Five to ten years, as money was available, staff replied.

The City Engineer reviewed the street projects list. The City had begun the "Clean and Safe Streets program" per Council's direction last year. Vehicle speed feedback signs had been installed (with three more to be installed this year), targeting school areas, and these tools were very effective. The City also would be installing six pedestrian countdown signals, indicating in seconds the remaining time to walk/run in crosswalk. About 200 more of these units would be installed.

Vice Mayor Gomez inquired how the City was prioritizing where these would be placed. Traffic Engineer Jaime Rodriguez explained that for the vehicle feedback signs, the grant described where they could be placed, based on traffic studies and he identified five particular locations.

Councilmember Giordano inquired about the pedestrian path at the Calaveras Blvd. railroad overcrossing. City Engineer said it was widening the sidewalk by two feet. She also asked about rubberized asphalt as a surface material. Mr. Armendariz explained it lasted longer and was self-correcting when harmed or cracked, and it was environmentally friendly too, formed from recycled tires.

Councilmember Livengood supported the project for the sidewalk at the Calaveras overcrossing, as it was unsafe. He wondered if there were any additional pedestrian crossing efforts there. A railing would be added, reported staff.

With regard to utility projects, nine were highlighted, and the Main Sewage Pump Station was the largest project scheduled.

Councilmember Polanski shared with the public the recent work done to reduce flooding incidents, and good performance of the Public Works staff this season with heavy rain. The Public Works Director added that as creeks rise higher, the pump stations now protect the community from floods since they pump water to keep it from overflowing into Milpitas neighborhoods.

Motion: approve the Community Improvement Program Budget for 2006-2007

Motion/ Second: Agency/Councilmember Polanski/ Agency/Councilmember Livengood

Motion carried by a vote of:

AYES: 5

NOES: 0

**RA6. Proposed 2005-2010  
Redevelopment Implementation  
Plan**

Economic Development Manager Diana Whitecar presented the proposed plan. It was required by state law to review the plan for the next five years. She reviewed the Redevelopment Agency accomplishments for the years 1999-2005. Over the next five years, five major goals and objectives were identified including the Midtown Area Specific Plan and the Great Mall Redevelopment Area.

Ms. Whitecar had reviewed the plan with other City departments including Finance, Planning and Public Works (including the CIP discussed on this agenda).

In the Mid-Town Plan area, \$58,339,000 was allocated for the library, circulation and utility work overall. Affordable housing set-aside funds were highlighted, noting the use of ABAG (Association of Bay Area Governments) numbers for housing goals allowed for the determination of the housing unit numbers in the Plan, with income and age restrictions.

She displayed RDA revenues/expenditures anticipated over the next five fiscal years, demonstrating a slight expected deficit at end of five years, if no changes were planned in budgeting for the Agency.

Councilmember Polanski inquired how would the City manage, to ensure plan would be lived out (not just on shelf)? Staff replied: with an active staff and involvement between departments in City government. Every two years, the Agency holds a public hearing to review expenditures and made changes as needed. Councilmember Polanski was impressed with the 20% set aside for housing spent to date

Motion: direct staff to prepare the final 2005-2010 Redevelopment Implementation Plan and schedule June 20, 2006 as the date for the public hearing for the Plan

Motion/second: Agency/Councilmember Polanski/ Agency/Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0

**\*RA7. Resolution Granting  
Initial Acceptance: Sports Center  
Pools, Project No. 8180**

Adopted Resolution No. RA 253 granting initial acceptance of Project No. 8180, subject to the one-year warranty period and reduction of the faithful performance bond to \$20,136.40.

**RA 8. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:25 PM.

**REPORT OF COUNCILMEMBER**

**6. Presentation on Employees'  
Salaries**

Councilmember Livengood responded at this meeting to an April 13 Milpitas Post news article, in which City employee salaries were calculated and compared. He wished to set the record straight. Nobody who worked for the City of Milpitas was embarrassed by his or her salary at the City. He fought to make the salaries public record and agreed with providing that information to the public. However, when local press manipulated the information that was available, he objected.

Mr. Livengood displayed a chart on screen regarding average employee salaries, as listed in the Post and compared those to average salaries he calculated by obtaining information from additional sources. The average he had calculated included all full-time City employees, of all salary ranges. The average he displayed was slightly lower overall compared to the mean salary of City employees throughout Santa Clara County.

Mayor Esteves thanked Mr. Livengood for the information he presented. He also asked



The City Council heard the report and remarks of Councilmember Livengood. No motion was made and no vote taken on this topic.

## 8. Single-Stream Recycle Cart Option Offer

Motion carried unanimously by a vote of :                 AYES: 5  
NOES: 0

Item as adopted on the Consent Calendar.

## 10. Memorandum of Understanding with the Milpitas Police Officers Association

Councilmember Livengood believed the contract was a good representation of the

